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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-552-801

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results, Final Results of No Shipments, and Partial Rescission of the Antidumping Duty Administrative Review; 2015-2016

AGENCY: Enforcement and Compliance, International Trade Administration,
Department of Commerce

SUMMARY: The Department of Commerce (Commerce) determines that certain frozen fish fillets (fish fillets) from the Socialist Republic of Vietnam (Vietnam) are being, or are likely to be, sold in the United States at less than normal value during the period of review (POR) August 1, 2015, through July 31, 2016.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Javier Barrientos, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone 202-482-2243.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results* on September 12, 2017.¹ In the *Preliminary Results*, we determined that GODACO Seafood Joint Stock Company (GODACO) did not act to the best of its ability in responding to Commerce's questionnaires and, pursuant to

¹ See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results, Preliminary Determination of No Shipments, and Partial Rescission of the Antidumping Duty Administrative Review; 2015-2016*, 82 FR 42785 (September 12, 2017) (*Preliminary Results*) and *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Decision Memorandum for the Preliminary Results of the 2015-2016 Antidumping Duty Administrative Review* (August 31, 2017) (PDM).

sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act), Commerce applied an adverse inference in calculating a margin for GODACO.² Commerce also determined a margin for the companies subject to this review which demonstrated that they were separate from the Vietnam-wide entity.³ Between February 5 and 15, 2018, interested parties submitted case and rebuttal briefs. On February 27, 2018, Commerce held a public hearing limited to issues raised in the case and rebuttal briefs. The period of review (POR) is August 1, 2015, through July 31, 2016.

Scope of the Order

The product covered by the order is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti*, *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*) and *Pangasius Micronemus*. These products are classifiable under tariff article code 0304.62.0020 (Frozen Fish Fillets of the species *Pangasius*, including basa and tra), and may enter under tariff article codes 0305.59.0000, 1604.19.2100, 1604.19.3100, 1604.19.4100, 1604.19.5100, 1604.19.6100 and 1604.19.8100 of the Harmonized Tariff Schedule of the United States (HTSUS).⁴ Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.⁵

² See PDM.

³ *Id.*

⁴ Until June 30, 2004, these products were classifiable under HTSUS 0304.20.6030, 0304.20.6096, 0304.20.6043 and 0304.20.6057. From July 1, 2004, until December 31, 2006, these products were classifiable under HTSUS 0304.20.6033. From January 1, 2007, until December 31, 2011, these products were classifiable under HTSUS 0304.29.6033. On March 2, 2011, Commerce added two HTSUS numbers at the request of U.S. Customs and Border Protection (“CBP”) that the subject merchandise may enter under: 1604.19.2000 and 1604.19.3000, which were changed to 1604.19.2100 and 1604.19.3100 on January 1, 2012. On January 1, 2012, Commerce added the following HTSUS numbers at the request of CBP: 0304.62.0020, 0305.59.0000, 1604.19.4100, 1604.19.5100, 1604.19.6100 and 1604.19.8100.

⁵ For a complete description of the scope of the order, see Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Issues and Decision Memorandum for the Final Results of the Thirteenth Antidumping Duty.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this review are addressed in the Issues and Decision Memorandum. A list of the issues which parties raised is attached as the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit (CRU), Room B8024 of the main Department of Commerce building, as well as electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and in the CRU. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at <http://enforcement.trade.gov/frn/index.html>. The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Changes Since the *Preliminary Results*

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results*, and for the reasons explained in the Issues and Decision Memorandum, we have determined that a different rate is appropriate to apply to GODACO, which in turn results in a different rate applied to the separate rate companies from the margins assigned in the *Preliminary Results*.

Final Determination of No Shipments

In the *Preliminary Results*, Commerce preliminarily determined that Saigon-Mekong Fishery Co., Ltd. (SAMEFICO), and QVD⁶ had no shipments during the POR. Consistent with Commerce's refinement to its assessment practice in non-market economy (NME) cases, we

Administrative Review; 2015-2016," at 2-3 (Issues and Decision Memorandum), dated concurrently with and hereby adopted by this notice.

⁶ These companies include QVD Food Co., Ltd., QVD Dong Thap Food Co., Ltd. and Thuan Hung Co., Ltd.

completed the review with respect to the above-named companies.⁷ Based on the certifications submitted by these companies, we continue to find that they did not have any shipments during the POR. As noted in the “Assessment Rates” section below, Commerce intends to issue appropriate instructions to CBP for the above-named companies based on the final results of the review.

Vietnam-Wide Entity

We noted in the *Preliminary Results* that a review was requested, but not rescinded, for Golden Quality Seafood Corporation (Golden Quality). Golden Quality failed to answer Commerce’s antidumping duty questionnaire and is not eligible for separate rate status; thus, we find Golden Quality to be part of the Vietnam-wide entity, which is not under review. As Golden Quality is part of the Vietnam-wide entity, it will receive the Vietnam-wide entity’s antidumping duty margin of \$2.39/kg. Additionally, consistent with Commerce’s practice to assign the Vietnam-wide rate to companies under review that do not submit separate rate certifications or applications and, thus, are not eligible for separate rate status, we are also assigning the Vietnam-wide entity’s rate to Anvifish Joint Stock Company (Anvifish) and Thuan An Production Trading and Service Co., Ltd. (Tafishco).

Partial Rescission of Administrative Review

In accordance with 19 CFR 351.213(d)(3) and 19 CFR 351.401(f), and in accordance with our decision in Comment 7 of the Issues and Decision Memorandum, Commerce is rescinding this review with respect to An Giang Agriculture and Food Import-Export Joint Stock Company (Afiex), Bien Dong Seafood Co., Ltd. (Bien Dong) and Vinh Hoan Corporation (Vinh Hoan).

⁷ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-95 (October 24, 2011).

Final Results of the Review

The weighted-average dumping margins for the final results of this administrative review are as follows:

Exporter	Weighted-Average Margin (Dollars/Kilogram)⁸
GODACO Seafood Joint Stock Company	3.87**
Cadovimex II Seafood Import-Export and Processing Joint Stock Company***	7.74
Can Tho Import-Export Joint Stock Company, aka CASEAMEX*	3.87
Cuu Long Fish Joint Stock Company*	3.87
Dai Thanh Seafoods Company Limited*	3.87
Green Farms Seafood Joint Stock Company*	3.87
Hoang Long Seafood Processing Co., Ltd.***	7.74
Hung Vuong Group*	3.87
NTSF Seafoods Joint Stock Company*	3.87
Southern Fishery Industries Company, Ltd.	3.87
Vinh Quang Fisheries Corporation*	3.87

* These companies are separate rate respondents not individually examined.

** Although we find mandatory respondent GODACO to be eligible for a separate rate, its margin is based on adverse facts available (AFA).

*** Cadovimex II's and Hoang Long's rates are based on a finding of duty reimbursements.

⁸ In the third administrative review of this order, the Department determined that it would calculate per-unit assessment and cash deposit rates for all future reviews. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Partial Rescission*, 73 FR 15479 (March 24, 2008).

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this administrative review.

For assessment purposes, we calculated importer (or customer)-specific assessment rates for merchandise subject to this review. We will continue to direct CBP to assess importer-specific assessment rates based on the resulting per-unit (*i.e.*, per kilogram) rates by the weight in kilograms of each entry of the subject merchandise during the POR. Specifically, we calculated importer specific duty assessment rates on a per-unit rate basis by dividing the total dumping margins (calculated as the difference between normal value and export price, or constructed export price) for each importer by the total sales quantity of subject merchandise sold to that importer during the POR. If an importer (or customer)-specific assessment rate is *de minimis* (*i.e.*, less than 0.50 percent), Commerce will instruct CBP to assess that importer (or customer's) entries of subject merchandise without regard to antidumping duties, in accordance with 19 CFR 351.106(c)(2).

Commerce determines that the No Shipment Companies did not have any reviewable transactions during the POR. As a result, any suspended entries that entered under these exporters' case numbers (*i.e.*, at each exporter's rate) will be liquidated at the Vietnam-wide rate.⁹

⁹ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011); see also Preliminary Decision Memo at 4-5.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for the exporters listed above, the cash deposit rate will be the rate established in the final results of review (except, if the rate is zero or *de minimis*, i.e., less than 0.5 percent, a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed Vietnamese and non-Vietnamese exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all Vietnamese exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the Vietnam-wide rate of \$2.39 per kilogram; and (4) for all non-Vietnamese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnamese exporters that supplied that non-Vietnamese exporter. The deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties. As noted above, and described in detail in the Issues and Decision Memorandum, Commerce has determined as adverse facts

available, pursuant to sections 776(a) and (b) of the Act, that Cadovimex II and Hoang Long had their antidumping duties reimbursed during the POR.

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these administrative reviews and notice in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(5).

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

Dated: March 14, 2018

Appendix

List of Topics Discussed in the Final Decision Memorandum

Comment 1: Assignment of AFA Rate to GODACO
Comment 2: Assignment of GODACO's Rate to the Separate Rate Respondents
Comment 3: Assignment of AFA Rate to Hoang Long and CADOVIMEX II
Comment 4: Whether to Rescind the Review with Respect to Golden Quality
Comment 5: Golden Quality's Reporting of CONNUM-Specific FOPs
Comment 6: Application of Adverse Facts Available to Golden Quality
Comment 7: Preliminary Results Posting Errors
Comment 8: CBP Instructions
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